

1 Charles F. Barker, Cal. Bar No. 70076
SHEPPARD MULLIN RICHTER & HAMPTON LLP
2 333 South Hope Street, 48th Floor
Los Angeles, California 90071-1448
3 Telephone: 213-620-1780
Facsimile: 213-620-1398
4 cbarker@sheppardmullin.com

5 Samantha D. Hardy, Cal. Bar No. 199125
SHEPPARD MULLIN RICHTER & HAMPTON LLP
6 501 West Broadway, 19th Floor
San Diego, California 92101-3598
7 Telephone: 619-338-6500
Facsimile: 619-234-3815
8 shardy@sheppardmullin.com

9 Attorneys for Defendant FEDEX GROUND
PACKAGE SYSTEM, INC.

10
11 UNITED STATES DISTRICT COURT
12 NORTHERN DISTRICT OF CALIFORNIA
13 SAN FRANCISCO DIVISION

14 FAITH D. MARTIN, individually and on
behalf of all others similarly situated,

15 Plaintiff,

16 v.

17 FEDEX GROUND PACKAGE SYSTEM,
18 INC., and DOES 1-10 inclusive,

19 Defendant.

Case No. 06-cv-06883-VRW

CLASS ACTION

**CERTIFICATE OF COMPLETION OF
SETTLEMENT ADMINISTRATION
AND FILING OF CONSENTS
PURSUANT TO 29 U.S.C. § 216(b)**

1 Pursuant to paragraph 13(i) of the parties' Settlement Agreement, Defendant
2 FEDEX GROUND PACKAGE SYSTEM, INC., by and through its undersigned attorneys,
3 hereby certifies that all proceedings concerning settlement administration have been
4 completed. Exhibit 1 is a declaration from the claims administrator setting forth the
5 distribution of funds in this action.

6 Per the Court's instructions and pursuant to 29 U.S.C. § 216(b), Defendant's
7 counsel will retain copies of all Claim Forms/FLSA Consent Forms that were filed with
8 the claims administrator in this action. Anyone wishing to view the Claim Forms/FLSA
9 Consent Forms should contact Defendant's counsel. Portions of the Claim Forms/FLSA
10 Consent Forms have been redacted due to privacy concerns.

11 Accordingly, the settlement administration process is now closed.

12
13 Dated: February 9, 2010 SHEPPARD, MULLIN, RICHTER & HAMPTON LLP

14
15 By /s/ Samantha Hardy
16 SAMANTHA D. HARDY

17 Attorneys for Defendant
18 FEDEX GROUND PACKAGE SYSTEM, INC.
19
20
21
22
23
24
25
26
27
28

EXHIBIT 1

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

FAITH D. MARTIN, individually and on
behalf of all others similarly situated,

Plaintiffs,

v.

FEDEX GROUND PACKAGE SYSTEM,
INC.,

Defendants.

CASE NO. 06-CV-06883-VRW

**DECLARATION OF BERNELLA
LENHART REGARDING DISTRIBUTION
OF FUNDS.**

I, Bernella Lenhart, declare as follows:

1. I am employed by Gilardi & Co., LLC ("Gilardi"), located at 3301 Kerner Blvd., San Rafael, California. Gilardi was appointed as the Settlement Administrator in this matter. I am in charge of the claims administration for this matter. I am over 21 years of age and am not a party to this action. I have personal knowledge of the facts set forth herein and, if called as a witness, could and would testify competently thereto.

2. On or about February 9, 2009, Class Notices were mailed via First Class Mail to 51,973 class members. The Class Notice advised class members that a Claim Form, request for exclusion, or objection would be considered timely if post-marked by March 26, 2009.

3. In total, Gilardi received a total of 11,511 claim forms. Of the 11,511 claim forms, 305 claims were not paid and 11,206 claims were paid.

W02-WEST:8RAM1402459145.1

-1-

DECLARATION OF BERNELLA LENHART

1 a. 305 claims were not paid because (a) 144 were deficient, (b) 83 were
2 postmarked after May 20, 2009 (the parties had agreed to extend the filing deadline from March
3 26, 2009 to May 20, 2009), and (c) 78 were from individuals who did not work during the class
4 period.

5 b. 11,206 claims were approved for payment. These 11,206 claims
6 represent 22% of the class, and 48% of the net settlement amount (\$2,491,506.56 before the
7 PAGA payment of \$18,686.30).

8 4. Gilardi received 48 timely requests to opt out of the settlement.

9 5. Gilardi received zero objections to the settlement.

10 6. On August 5, 2009, the defendant wire transferred \$2,701,325.74 into the
11 settlement fund account.

12 7. On August 7, 2009, Gilardi issued and mailed enhancement award checks to the
13 four Named Plaintiffs, totaling \$50,000.00.

14 8. On August 10, 2009, Gilardi issued and mailed settlement checks to the 11,206
15 class members who filed valid and timely claims, for a total of \$1,879,162.91 plus \$593,657.35 in
16 employee payroll taxes, for a total of \$2,472,820.26. Settlement checks were mailed to the
17 current address of each class member via First Class Mail. These checks carried a stale date of
18 November 8, 2009.

19 9. On August 10, 2009, Gilardi paid a total of \$772,121.14 in taxes from the
20 settlement fund as follows: \$178,463.79 in employer-owed taxes and \$593,657.35 in employee-
21 owed taxes.

22 10. On January 29, 2010, at the request and agreement of Counsel for both parties,
23 Gilardi re-issued 17 checks to class members who were unable to cash their original checks prior
24 to the stale date. These 17 checks totaled \$5,587.49 (net of taxes) (taxes were accounted for
25 during the initial check distribution dated August 10, 2009, referenced in paragraph 8, above).

26 11. As of the date of this declaration, 11,193 checks have been cashed totaling
27 \$1,804,509.18 net of taxes (or \$2,375,761.58 gross).

28 12. As of the date of this declaration, 1,070 checks have not been cashed from the

1 initial check distribution on August 10, 2009. These 1,070 checks total \$70,822.57 net of taxes
 2 (or \$93,227.52 gross). Tax refund requests will be processed for these 1,070 checks (referenced
 3 in paragraph 16, below).

4 13. As of the date of this declaration, 13 checks from the second distribution on
 5 January 29, 2010 have not been cashed. These 13 checks total \$3,831.16 net of taxes (or
 6 \$5,043.05 gross).


7 14. The following is a breakdown of the payments made:

8 Claimant Checks	\$1,879,162.91
9 Named Plaintiff	50,000.00
10 Employer Taxes	178,463.79
11 Employee Taxes	<u>593,657.35</u>
	\$2,701,284.05

12 15. As of the date of this declaration, the settlement fund account has a balance of
 13 \$74,695.42. Of this amount, \$3,831.16 is reserved for the 13 outstanding checks (referenced in
 14 paragraph 13, above). There remains \$70,864.26 in the settlement fund account after the reserve.
 15 Attached hereto as Exhibit A is a Funds Analysis.

16 16. The 1,070 uncashed checks have been voided. Tax refunds will be requested,
 17 estimated at \$22,404.95 (employee portion of the taxes) and \$11,140.68 (employer's portion of
 18 the taxes), for an estimated total of \$33,545.64.

19 I declare under penalty of perjury that the foregoing is true and correct to the best of my
 20 knowledge and that this declaration was executed this 9th day of February, 2010 at San Rafael,
 21 California.

22
 23 

24 BERNELLA LENHART
 25
 26
 27
 28

EXHIBIT A

CONFIDENTIAL

Fund Analysis
for the purpose of Current Status
as of January 28, 2010

Prepared by KS 1/29/10

Approved by BHC 1/29/10

Martin v Fed Ex Ground Package System, Inc.**Source of Funds**

Settlement funds received in August 2009	<u>\$2,701,325.74</u>	
Total Source of Funds		\$2,701,325.74

Use of Funds

1st Distribution of 11,206 checks on August 10, 2009	(1,879,162.91)	
Void Issuance 1st distribution (1,070 checks)	70,822.57	
Uncashed checks not yet stale (13)	<u>3,831.16</u>	
Net distribution checks paid		(1,804,509.18)
Withholding taxes paid		(772,121.14)
Named Plaintiffs paid		<u>(50,000.00)</u>
Total Use of Funds		<u>(2,626,630.32)</u>
Net Fund Bank Balance as of January 28, 2010		74,695.42
Reserve for Uncashed checks not yet stale		<u>(3,831.16)</u>
Net Fund Balance after Reserves		<u>\$70,864.26</u>

1 Faith Martin v. FedEx Ground Package System, Inc.
2 USDC, Northern District of California Case No. C-0606883 VRW

3 CERTIFICATE OF SERVICE
4 UNITED STATES DISTRICT COURT, NORTHERN DISTRICT OF CALIFORNIA

5 I am employed in the County of San Diego; I am over the age of eighteen years and not a
6 party to the within entitled action; my business address is 501 West Broadway, 19th Floor,
7 San Diego, California 92101-3598. On February 10, 2010, I served the following
8 document(s):

9 **CERTIFICATE OF COMPLETION OF SETTLEMENT ADMINISTRATION AND**
10 **FILING OF CONSENTS PURSUANT TO 29 U.S.C. § 216(b) (including Exhibit 1**
11 **DECLARATION OF BERNELLA LENHART REGARDING DISTRIBUTION OF**
12 **FUNDS)**

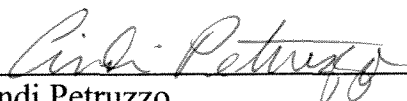
13 **Electronic Mail Notice List**

14 The following are those who are currently on the list to receive e-mail notices for this case.

- 15 • **Michael L. Carver** (Attorney for Plaintiff)
16 mccarver@carverlaw.com
- 17 • **Patricia Anne Savage** (Attorney for Plaintiff)
18 psavesq@gmail.com
- 19 • **Matthew Righetti** (Attorney for Plaintiff)
20 matt@righettilaw.com
- 21 • **John J. Glugoski** (Attorney for Plaintiff)
22 jglugoski@righettilaw.com
- 23 • **Geoffery F. Gega** (Attorney for Plaintiff)
24 ggega@cookbrown.com
- 25 • **Regina Silva** (Attorney for Plaintiff)
26 rsilva@cookbrown.com

27 I declare that I am employed in the office of a member of the Bar of this
28 Court at whose direction the service was made. I declare under penalty of perjury under
the laws of the United States of America that the foregoing is true and correct.

Executed on February 10, 2010, at San Diego, California.

29 
30 Cindi Petruzzo